

OHIO E.P.A.

MAY 14 2004

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Swan Creek Township Trustees  
5565 County Road D  
Delta, Ohio 43515

:  
:  
:

Director's Final  
Findings and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Swan Creek Township Trustees (Respondent), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the developer of Swan Creek Township Hall, a building to be used as a meeting hall and as offices (Facility). Included in the development of the Facility is the installation of a wastewater treatment system to serve

I certify this to be a true and accurate copy of the  
official document as filed in the records of the Ohio  
Environmental Protection Agency.

By: \_\_\_\_\_

Date

5-14-04

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the Facility. The Facility is located on the southwest corner of Township Road 5-1 and County Road D in Section 32 of Swan Creek Township, Fulton County, Ohio.

2. Ohio Administrative Code (OAC) Rule 3745-42-02, formerly OAC Rule 3745-31-02, requires the Director's issuance of a permit to install (PTI) prior to the installation of a new "disposal system," as such term is defined in ORC § 6111.01(G).
3. Pursuant to ORC § 6111.44, the Director's approval of plans for sewerage or treatment works for sewerage disposal is required prior to the installation of such sewerage or treatment works for sewerage disposal.
4. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including OAC Rule 3745-42-02.
5. On February 7, 2002, Ohio EPA conducted an inspection at the Facility. The inspection confirmed that the installation of the sewerage or treatment works for sewerage disposal at the Facility had been completed prior to the approval of the plans and issuance of a PTI by Ohio EPA. Based on Ohio EPA's inquiry into this matter, it appears that Respondent began installation of and completed construction of the wastewater treatment system for the Facility in the fall of 2001. The wastewater treatment system at the Facility is a "disposal system," as such term is defined in ORC § 6111.01(G).
6. On February 26, 2002, Ohio EPA notified Respondent via certified mail that the sewerage or treatment works for sewerage disposal installation at the Facility was in violation of ORC Chapter 6111. and OAC Rule 3745-31-02.
7. On January 2, 2003, Ohio EPA received a telephone complaint regarding the installation of a sewerage or treatment works for sewerage disposal at the Facility prior to the approval of the plans and issuance of a PTI by Ohio EPA.
8. On May 28, 2003, Ohio EPA notified Respondent via certified mail that a PTI for installation of the wastewater treatment system at the Facility must be submitted to Ohio EPA by June 30, 2003.
9. On June 30, 2003, Ohio EPA participated in a telephone conference with Respondent's consultant, Technician Design. During the telephone conference, Technician Design's representative stated that the PTI for the sewerage or treatment works for sewerage disposal at the Facility would be

submitted to Ohio EPA by the first week of July 2003.

10. Effective October 17, 2003, OAC Rule 3745-31-02 was superseded by OAC Rule 3745-42-02.
11. To date, a PTI application and detailed plans for the installation of a new sewerage or treatment works for sewerage disposal at the Facility have not been received by Ohio EPA.
12. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

#### **V. ORDERS**

1. Respondent shall not install sewerage or treatment works for sewage disposal or new disposal systems at any location in Ohio without first receiving prior approval from the Director as required by law. Respondent may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with this Order for a period of three hundred and sixty five (365) days from the effective date of these Orders. Such a request for termination shall be submitted in accordance with Section VI. of these Orders.
2. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA in accordance with OAC Chapter 3745-42 a complete and approvable PTI application and detailed plans for the sewerage or treatment works for sewerage disposal at the Facility.
3. Respondent shall pay to Ohio EPA the amount of two thousand four hundred and forty-five dollars (\$2,445) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount within thirty (30) days of the effective date of these Orders, to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the project (Swan Creek Township Hall).

A photocopy of the check shall be sent to Ohio EPA Northwest District Office at the address below:

Ohio Environmental Protection Agency  
Northwest District Office  
347 North Dunbridge Road  
P.O. Box 466  
Bowling Green, Ohio 43402  
Attn: DSW Supervisor, Division of Surface Water

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the Swan Creek Township Hall project.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

**X. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI. of these Orders.

**XI. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIII. SIGNATORY AUTHORITY**

Each undersigned representative or a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

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**IT IS SO AGREED:**

**Swan Creek Township Trustees**

Richard W. Stout  
Signature

4/21/04  
Date

RICHARD W. STOUT  
Printed or Typed Name

Trustee  
Title

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

Christopher Jones  
Christopher Jones  
Director

May 14, 2004  
Date